

Board of Nurse Registration and Nursing Education Nurse Licensure/Criminal Conviction Guidelines

(March 2001)

Registered Nurses and Licensed Practical Nurses by virtue of their state licensure have intimate, physical and emotional contact with residents, clients and patients as well as access to personal property in some settings. In this capacity, they are placed in a position of the highest public trust. Nurses are afforded free access to the rooms, homes and intimate body parts of patients, residents or clients who are sick, disabled, dependent or infirm. These individuals may be vulnerable in that they may be unable to protect themselves, voice objections to actions or provide accurate accounts of events at a later time.

Persons in need of Nursing services rely on the existence of state licensure to assure that those who provide nursing care are worth of this extraordinary trust. In light of the high degree of trust conferred upon nurses, nurses are held to a high standard. The Board of Nurse Registration and Nursing Education has a duty to exclude individuals who pose a risk to public health and safety by virtue of conviction of certain crimes. For the purpose of these guidelines, convictions shall include nolo-contendere pleas followed by probation per Chapter 12-18-3 of the Rhode Island General Laws. Further, these guidelines are limited to criminal convictions and shall not restrict the authority of the Board to deny licensure or discipline a licensee for other causes as set forth in Section 5-34 of the Rules and Relations relating to Nursing including violation of Federal, State or Local laws. Further, in instances where licensure is granted, the Board may impose conditions such as probation, suspension or other sanctions.

General Denial

Licensure of individuals convicted of certain crimes presents an unreasonable risk to public health and safety. Thus, applications for licensure by individuals convicted of the following crimes will be denied in all cases unless the individual can establish by clear and convincing evidence to the satisfaction of the Board or any other appropriate person charged with rendering a decision, that s/he has been rehabilitated and poses no threat to the health, safety and welfare of the public.

1. Felonies involving sexual misconduct where the victim's failure to affirmatively consent is an element of the crime, such as forcible sexual assault.
2. Felonies involving the sexual, physical or mental abuse of children, the elderly or infirm, such as sexual misconduct with a child, making or distributing child pornography or using a child in a sexual display, incest involving a child, assault on an elderly or infirm person.

3. Any crime in which the victim is a patient, client or resident of a health care facility including abuse, neglect, theft from, or financial exploitation of a person entrusted to the care or protection of the applicant.
4. Any crime resulting in the individual being incarcerated, on work release, on probation or on parole.
5. Any crimes in the following categories unless at least five years have passed since the conviction or five years have passed since release from custodial confinement whichever occurs later:
 - Serious crimes of violence against persons, such as assault or battery with a dangerous weapon, aggravated assault and battery, murder or attempted murder, manslaughter (except involuntary manslaughter) kidnapping, robbery of any degree or arson;
 - Crimes involving controlled substances or synthetics, including unlawful possession or distribution, or intent to distribute unlawfully, Schedule I through V drugs as defined by the Uniform controlled Substances Act.
 - Serious crimes against property, such as grand larceny, burglary, embezzlement or insurance fraud.
 - Any other crime that involves sexual misconduct.

In determining whether an applicant has been rehabilitated and poses no threat to the health, safety and welfare of the public, information considered by the Board may include but not be limited to:

1. The seriousness of the crime;
2. Whether the crime relates directly to the training and skills of a nurse and the delivery of patient care;
3. How much time has elapsed since the crime was committed;
4. Whether the crime involved violence to or abuse of another person;
5. Whether the crime involved a minor or a person of diminished capacity;
6. Whether the applicant's actions and conduct since the crime occurred are consistent with the holding of a position of public interest.

Implementation

The Board of Nurse Registration and Nursing Education requires applicants for licensure to complete a statement concerning convictions when applying for licensure. Persons who have been convicted of a violation of Federal, State or Local law are required to submit to the Board specific court related documents including a certified copy of the court Judgement and Disposition Form, Parole Certificates and other such information as may be deemed necessary to evaluate this matter. Applications with convictions related to alcohol and/or substance abuse will be required to submit evidence of clinical professional evaluation regarding their current rehabilitation status. Documentation should be submitted by an appropriate health professional. Accordingly, each case is reviewed on an

individual basis, which may include a meeting between the applicant and the Board.

In the event the Board denies an application for a nursing license, the Rules and Regulations for the Licensing of Nurses allows that an appeal for a decision of the Board may be taken pursuant to the provisions of Chapter 42-35 of the General Laws of Rhode Island, as amended, and the Rules and Regulations relating to Procedures Before the Department of Health as contained in Section 15.1 of the regulations.